

**THE LABOR COMMISSION  
WORKERS' COMPENSATION ADVISORY COUNCIL**

**Wednesday, September 18, 2013 – 12:00 P.M.**

**Room 319, Heber M. Wells Bldg.**

**Salt Lake City, Utah**

**Problem with recording – no audio recording available**

**The following Advisory Council members were in attendance:**

Dennis Lloyd, Workers Compensation Fund (for Ray Pickup)  
Brian Kelm, Esq.  
Richard J. Thorn, President/CEO, Associated General Contractors - Utah Chapter  
Edward Holmes, M.D., Summit View Medical  
Brandon Dew, Central Utah Federation of Labor  
K. Dawn Atkin, Esq., Atkin & Associates  
Tracey Klausmeier, Utah Dept of Insurance  
Dave Davis, President, Utah Food Industry Association  
Brandt Goble, Painters and Tapers Local 77  
Reo Castleton, President, SL Cnty Fire Dept Local 1696  
Sen. Karen Mayne  
David Bird, Esq., Parsons Behle and Latimer  
Kathleen Bissell, Liberty Mutual (by telephone)  
Todd Bingham, President, Utah Manufacturers Association

**The following Advisory Council members were excused:**

Rep. Jim Dunnigan  
Jeff Rowley, Salt Lake County

**Others Present:**

Sherrie Hayashi, Commissioner  
Jaceson Maughan, Deputy Commissioner  
Ron Dressler, Director, Division of Industrial Accidents, Labor Commission  
Sara Danielson, Utah Labor Commission, Administrative Assistant  
Stan Mead, Gallaher Settlement  
Heather Gunnarson, Labor Commission Adjudication Division  
Rod Morris, Deliotte Consulting  
Julie Clark, State Risk Management  
Maggie Karpuk, NCCI  
Kim Nortz, WCF  
Jodi Smith, IHC

**WELCOME**

**Welcome –Commissioner, Sherrie Hayashi** brought the meeting to order at 12:05 p.m.

**Miscellaneous Business:**

Dawn Atkin moved that the minutes from the June 13, 2013, meeting be approved. Brandon Dew seconded the motion. Voting was unanimous in the affirmative.

**Labor Commission Budget/Premium Surcharge Funds:**

Dave Lamb, distributed handouts regarding the UEF, ERF, IARA, and Workplace Safety funds. He explained that despite earlier concerns about the manner in which the Tax Commission was handling the

funds, the yearend figures are close to what was expected. Ron Dressler stated that as to the concerns regarding the funds from Self-Insured companies, the Tax Commission is auditing several of them. The Commission will try to obtain as much information regarding the results of those audits as possible and provide that information to the Council.

Rod Morris from Deloitte Consulting presented the actuarial report for the UEF and the ERF. See handout. Rod stated that the figures were impacted by the very low return rates on investments that has been going on for the last year and is projected to continue for a few more years. Deloitte's recommendations as to the percentages for 2014 are: 3% for the ERF and .42% for the UEF; for a total combined assessment of 4.17%.

Discussion was had regarding the Commission's ability to invest these funds differently to get better rates of return. It was determined that the Commission would speak with the Treasurer's office and inquire as to changing the investments to get better returns.

Dave Davis made the suggestion to set the rates at .42% for UEF and 2.63% for the ERF to maintain a revenue neutral assessment, while the issue of better rates of return are looked into. Discussion was held.

Brian Kelm made a motion to set the rates at 2.9% for the ERF and .35 for the UEF, making the total assessment 4.0%. Dave Davis made a substitute motion of 3.0% for the ERF to get it fully funded by 2018, and .05% for the UEF because we have more time to get this fully funded, for a total assessment rate of 3.8%. Todd Bingham seconded the motion. Voting was 4 in favor and 5 opposed. Motion failed.

Sherrie Hayashi brought forward the original motion made by Brian Kelm of 2.9% for the ERF and .35% for the UEF for an overall assessment of 4.0%. Brandt Goble seconded the motion. Voting was 5 in favor and 4 opposed. Motion carried.

#### **Adjudication Survey Update:**

Jacson Maughan distributed a handout showing the results fo the 2013 ALJ survey. He explained that the responses from both Applicants and Respondents were very similar. He also mentioned that the response rate is very low. He asked the council for any suggestions as to how to improve the response rate. Dawn Atkin state that she would speak with other counsel and ask for suggestions.

#### **Legislative and Rule-Making Matters:**

Ron Dressler explained that in looking at the Medical Fee rule and the treatment protocols, it was determined that there is duplication in the rules. Alan Hennebold has been working on cleaning up the duplication and putting all of the information in one place.

A draft bill regarding the Reemployment Act was submitted to the legislative committee. The draft was approved. This draft placed the important parts of the Reemployment Act into the appropriate place in the workers compensation statute and allowed the other parts of the act to sunset.

Jacson Maughan asked for assistance with the Attorney Fee rule. Questions that need to be considered: 1) should a change be made annually; 2) when should that change be made January or July; 3) should be change be automatic and tied to the average weekly wage of Utah employees. Discussion was held. It was determined that this issue should be fleshed out and presented at the Spring council meeting, so that NCCI can include that figure into the lost cost information.

Dennis Lloyd asked it discussion could be had about the docketing of awards (34A-2-212). Discussion was held. It was determined that a working group would be put together to draft changes to 34A-2-212. Dave Bird made a motion to have a draft made so that the council would have a starting point for further discussion. Dawn Atkin seconded the motion. Voting was unanimous.

**Other Business:**

Meetings for 2014:

January 8 (Wed) at noon

April 9 (Wed) at noon

July 9 (Wed) at noon

And September 10 (Wed) at noon.

Dennis Lloyd asked if a special meeting might be appropriate prior to December 1, 2013 to review proposed legislation and the draft for 34A-2-212.

Next meeting December 5, 2013, at noon.

Meeting adjourned at 2:05 pm.